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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,740	10/22/2003	David E. Clement	MAGD.01P	2739
23732	7590	11/04/2004		
KENEHAN & LAMBERTSEN, LTD JOHN C LAMBERT 1771 E. FLAMINGO ROAD SUITE 117B LAS VEGAS, NV 89119-0839			EXAMINER SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,740

Applicant(s)

CLEMENT ET AL.

Examiner

Theresa T. Snider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-11, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 7 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lehman et al..

Lehman et al. discloses a rideable carpet cleaning machine (col. 12, lines 55-58 and col. 3, lines 28-31)

Lehman et al. discloses a vacuum blower (col. 4, lines 1-3).

Lehman et al. discloses a waste reservoir (col. 3, line 67).

Lehman et al. discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waste reservoir (col. 3, lines 59-67).

3. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Romaniuk.

Romaniuk discloses a vacuum blower (col. 2, lines 41-42).

Romaniuk discloses a waste reservoir (fig. 2, #3).

Romaniuk discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waste reservoir (col. 2, lines 26-41 and 46-47).

With respect to claims 8-9, Romaniuk discloses a pair/plurality of shoes that are attached to one another (fig. 1, #16,17,19,13).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted State of the Prior Art as set forth in the Preamble of the Jepson Claim(hereafter ASPA) in view of Hahnl.

Hahnl discloses a pair of counter-rotating cylindrical brushes attached to a raisable platform ([0031-0031]). It would have been obvious to one of ordinary skill in the art to provide the brushes of Hahnl in ASPA to allow for the most effective cleaning of a surface.

Hahnl discloses a liquid spray nozzle attached forward of the brushes and in fluid communication with a cleaning solution reservoir (fig. 1, #13, [0035]).

With respect to claim 2, Hahnl discloses a pump located intermediate the nozzle and the reservoir ([0035]).

With respect to claim 3, Hahnl discloses the nozzle attached to a raisable brush platform ([0031]).

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellhauer et al. in view of Lehman et al. and Kasper('488).

Fellhauer et al. discloses a similar cleaning machine except for the machine being rideable and having a pair of counter-rotating brushes.

Fellhauer et al. discloses a cleaning solution reservoir (fig. 1, #20).

Fellhauer et al. discloses a vacuum blower (fig. 1, #34).

Fellhauer et al. discloses a waste water holding tank (fig. 1, #28).

Fellhauer et al. discloses a raisable power brush platform located between front and rear support wheels (col. 3, lines 10-11).

Lehman et al. discloses a carpet cleaning machine that can be rideable (col. 3, lines 26-31). It would have been obvious to one of ordinary skill in the art to make the machine of Fellhauer et al. rideable, as disclosed in Lehman et al., to prevent operator fatigue while cleaning large surface areas.

Fellhauer et al. discloses a cylindrical, rotating brush attached to the platform (fig. 1, #26). Kasper('488) discloses a cleaning machine having a raisable power brush platform with a pair of counter-rotating brushes (fig. 4, #45-48 and fig. 7, #45,88,95). It would have been obvious to one of ordinary skill in the art to provide the pair of counter-rotating brushes of Kasper('488) in Fellhauer et al. to ensure for the most effective scrubbing of a surface and removal of material from the surface.

Fellhauer et al. discloses a liquid spray nozzle attached forward of brush (col. 4, lines 33-34).

With respect to claim 2, Fellhauer et al. discloses a pump between the nozzle and reservoir (fig. 1, #20,22,25).

With respect to claim 3, Fellhauer et al. discloses the nozzle attached to the platform (fig. 3, #19,55,51).

With respect to claim 4, Fellhauer et al. discloses a liquid spray manifold in communication with the pump and nozzle (fig. 5, #25,55).

With respect to claim 5, Fellhauer et al. discloses a plurality of spray nozzles (fig. 5, #55).

With respect to claim 6, Fellhauer et al. discloses the manifold attached to the platform and the nozzle attached to the manifold (fig. 5, #25,19,51).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fellhauer et al. in view of Lehman et al..

Fellhauer et al. discloses a similar carpet cleaning machine however fails to disclose the machine being rideable.

Lehman et al. discloses a carpet cleaning machine that can be rideable (col. 3, lines 26-31). It would have been obvious to one of ordinary skill in the art to make the machine of Fellhauer et al. rideable, as disclosed in Lehman et al., to prevent operator fatigue while cleaning large surface areas.

Fellhauer et al. discloses a vacuum blower (fig. 1, #34).

Fellhauer et al. discloses a waste reservoir (fig. 1, #28).

Fellhauer et al. discloses a vacuum shoe that is selectively downwardly biased and is in fluid communication with the blower and waste reservoir (col. 3, lines 16-18 and col. 5, lines 11-23).

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8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fellhauer et al. in view of Kasper('488).

Fellhauer et al. discloses a similar cleaning machine except for a pair of counter-rotating brushes.

Fellhauer et al. discloses a frame (fig. 1, #12).

Fellhauer et al. discloses a means to move the machine along a surface (fig. 1, #13,17).

Fellhauer et al. discloses a surface engaging rotary tool mounted to the frame (fig. 1, #26). Kasper('488) discloses a cleaning machine having a raisable power brush platform with a pair of counter-rotating brushes (fig. 4, #45-48 and fig. 7, #45,88,95). It would have been obvious to one of ordinary skill in the art to provide the pair of counter-rotating brushes of Kasper('488) in Fellhauer et al. to ensure for the most effective scrubbing of a surface and removal of material from the surface.

Fellhauer et al. discloses a liquid spray nozzle mounted in advance of the rotary tool (col. 4, lines 33-34).

Fellhauer et al. discloses a surface engageable vacuum shoe (fig. 1, #29).

9. Claims 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellhauer et al. in view of Kasper('488) as applied to claim 10 above, and further in view of Romaniuk.

Fellhauer et al. in view of Kasper('488) discloses a similar scrubbing machine however fails to disclose a pair of vacuum shoes or a plurality of spray nozzles.

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Romaniuk discloses a cleaning machine with a pair of surface engaging shoes that are attached to another and able to articulate relative to each other (fig. 1, #16,17,19,13). It would have been obvious to one of ordinary skill in the art to provide the plurality of shoes in Fellhauer et al. in view of Kasper('488) to allow for greater suctioning of material by having several discrete areas rather than one large area to suction therefrom.

With respect to claim 13, Fellhauer et al. in view of Kasper('488) discloses the rotary tools counter-rotate relative to each other (col. 2, lines 17-22, as evidenced by Kasper)

With respect to claim 14, Fellhauer et al. discloses a plurality of spray nozzles (fig. 5, #55).

Allowable Subject Matter

10. Claim 12 is allowed.

Response to Arguments

11. Applicant's arguments filed 9/13/2004 have been fully considered but they are not persuasive.

Applicant urges that Romaniuk fails to disclose use as a carpet cleaning machine. This argument is not deemed persuasive because the apparatus does not know how it is going to be used. As argued by Applicant, road cleaners of the prior art typically have squeegee vacuum head, as opposed to vacuum shoes. Vacuum shoes being used to clean carpeted surfaces. It is noted that Romaniuk discloses vacuum shoes, thus the ability to clean carpeted surfaces.

Romaniuk fails to specify the size of the truck, therefore as long as a vehicle('source power') has

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a bumper it would be able to operate as disclosed therein. It is noted that the size of the 'source of power' would be a matter of design choice to one of ordinary skill in the art to allow for the most effective coverage of the desired surface area.

Applicant urges that one cannot use the preamble of the Jepson claim as Admitted State of the Prior Art if it is Applicant's own invention. It is noted in Applicant's specification in [0017], Applicant discloses a prior art device, which is believed to provide basis for the preamble of the Jepson claim. It is also noted that the assignee of the disclosed prior art is Tennant Company. However, Applicant admits in the petition of 10/22/2003, to be employed by Brady Industries. It is unclear as to how the preamble can be considered Applicant's own invention if the disclosed prior art and Applicant are not from the same company. Therefore, it is believed that the use of the preamble of the Jepson claim as admitted state of the prior art is appropriate, until further clarified.

Applicant urges that Fellhauer et al. fails to disclose a 'rideable' carpet cleaning machine. This argument is deemed moot in view of the new grounds of rejection.

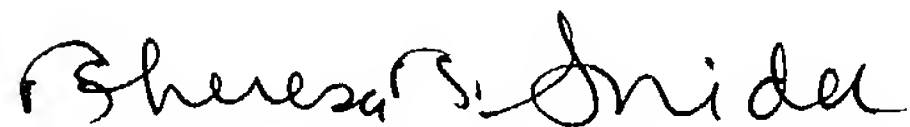
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Thursday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T. Snider
Primary Examiner
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11/2/2004